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IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

CWP-3087-2023 (O&M)
Reserved on : 13.12.2023
Pronounced on : 02.02.2024

Param Raj Singh Umaranangal ....Petitioner

Versus

Union of India and Others ....Respondents

CORAM : HON'BLE MR. JUSTICE SURESHWAR THAKUR
HON'BLE MRS. JUSTICE SUDEEPTI SHARMA

Present : Mr. D.S.Patwalia, Senior Advocate with
Mr. G.S.Patwalia, Advocate with
Mr. S.S.Saron, Advocate for the applicant-petitioner.

Mr. Ashish Rawal, Advocate for
Respondent No.1 – Union of India.

Mr. R.K. Kapoor, Addl. A.G., Punjab.

SUDEEPTI SHARMA, J.

1. The prayer of the petitioner in the present writ petition is for quashing the impugned judgment and order dated 01.02.2023 (Annexure P-31) passed by the Central Administrative Tribunal, Chandigarh Bench in O.A No.695 of 2022, whereby claim of the petitioner for reinstatement, has been rejected. Further, petitioner is asking for issuance of a Writ of Mandamus directing the respondents to allow him to join service as the suspension orders dated 26.02.2019 (Annexure P-3), 20.11.2020 (Annexure P-17) and 22.03.2021 (Annexure P-18) stand revoked in the light of sub clause (8) of Rule 3 of the All India Services (Discipline and Appeal) Rules, 1969 (hereinafter referred to as 1969 Rules) which specifically provides that an order of suspension has to be reviewed by the concerned Review

Committee within a period of 60 days from the date of its issuance, failing which the suspension order shall stand revoked with effect from the date period of 60 days has been completed. Further, the extension order dated 20.11.2020 (Annexure P-16) passed by respondent no.3 also stands revoked in the light of the fact that the same has been issued after a period of 632 days of the initial order of suspension, which is contrary to the concerned Service Rules, as the suspension order dated 26.02.2019 (Annexure P-3) which was sought to be extended, already stood revoked.

Written Submissions of learned counsel for petitioner

2. Learned counsel for the petitioner contends as under:-

i That the learned Tribunal failed to appreciate the fact that Rule 3 was amended by way of a notification dated 21.12.2015 wherein a suspension order is made subject to two riders; firstly, it is only valid for a period of 30 days, further extension of 30 days requires confirmation by the Central Government, which has not been done in the present case for any of the suspension orders.

ii. Secondly, an order of suspension which has been confirmed by the Central Government is valid only for a cumulative period of 60 days and further extension of the same can only be made under the recommendations of the concerned Review Committee, which has not been done in the present case for any of the suspension orders.

iii. Thirdly, the Ld. Tribunal failed to appreciate that the extension order dated 20.11.2020 of the suspension order dated 27.02.2019 by the State Review Committee is in teeth of sub-clause (8) to Rule 3 of the All-India Services (Discipline & Appeal) Rules, 1969, as the said Rule specifically

mandates that the suspension order can remain in existence only if it is reviewed by the concerned committee within a period of 60 days from the date of its issuance. However, in the present case, the extension order has been issued after a period of 632 days of the initial order of suspension.

iv. Fourthly, the Ld. Tribunal also failed to appreciate sub-clause (1B) of Rule 3 and sub-para (ix) of the amendment dated 21.12.2015, which specifically deals with period of suspension of an All-India Service Officer. The aforesaid Rule specifically states that if a member of service is suspended on charges other than corruption, then the period of suspension shall not exceed more than 1 year, the same can only be continued beyond one year on the recommendations of the Central Ministry's Review Committee.

v. Fifthly, the Ld. Tribunal failed to appreciate the fact that a statute has to be given a plain and simple interpretation, in its literal sense. A perusal of sub clause (8) (a) to Rule 3 would clearly reveal that the opening words specifically state ***'an order of suspension made under this Rule*** *which has not been extended shall be valid for a period not exceeding sixty days and an order of suspension which has been extended shall remain valid for a further period not exceeding one hundred twenty days, at a time, unless revoked earlier.'*

A perusal of which reveals that sub-clause (8) of Rule 3 incorporates all the orders of suspension that are made under Rule 3. The aforesaid stand has been supported by the Union of India in its reply dated 11.09.2023.

3. In support of his arguments learned counsel for the petitioner placed on record the following judgments:-

Sr. No.	Citation	Para Nos.
Suspension must be reviewed every 3 months by the competent authority and a fresh order must be issued within 3 months of continuous suspension		
1.	Ajay Kumar Chaudhary Vs. UOI (2015) 7 SCC 291	11,12 & 21
2.	State of Tamil Nadu Vs. Pramod Kumar, IPS & Anr. (2018) 17 SCC 677	24,25,26 & 27
Selective Suspension under Rule 3(3) of the 1969 Rules is impermissible.		
3.	K.Sukhendar Reddy Vs. State of A.P & Anr. (1999) 6 SCC 257	2, 4, 5, 6 & 7
Suspension of a member of All India Service should not be whimsical		
4.	State of Haryana Vs. Central Administrative Tribunal & Ors. (2009) SCC Online P&H 4388	
Suspension order under Rule 3(3) cannot continue beyond limit prescribed under Rule 3(8).		
5.	M.Kalaivanan Vs. Government of India & Ors. 1999 SCC OnLine Mad.984	7,8,9
6.	State of Madhya Pradesh & Ors. Vs. Purushottam Sharma (WP No.16799 of 2022 before the Hon'ble High Court of Madhya Pradesh)	
Officers similarly placed as the Petitioner against whom criminal proceedings in the same FIR's and have been granted relief by this Hon'ble Court against suspension		
7.	Bikramjit Singh Vs. State of Punjab (CWP No.11395 of 2020)	
8.	Paramjit Singh Vs. State of Punjab (CWP No.11824 of 2020)	
9.	Parminder Singh Batth Vs. State of Punjab (CWP-3093 of 2023)	

Written Submissions of learned counsel for respondents no.3 & 4/State

4. Per contra, learned counsel for respondents no.3 and 4/State contends as under:-

1. That in the writ petition, there is no challenge to the departmental proceedings at all and the petitioner cannot be permitted to argue on the validity of the pendency of the departmental proceedings. Nevertheless, in

view of the fact that as far as the order dated 20.11.2020 (P-16) is concerned, it has been wrongly mentioned by the petitioner as an extension order but, the perusal of the same would show that this is an order passed by invoking Rule 3 (3) of the All India Services (Discipline and Appeal) Rules, 1969 by partly modifying the order of the State Government dated 26.02.2019 (P-3).

2. That second suspension order was passed on 20.11.2020 is with reference to FIR No. 130 dated 21.10.2015 whereby the petitioner was placed under suspension with effect from 26.09.2020.

3. That the third suspension order was passed with reference to FIR No. 147 dated 06.11.2020 whereby the petitioner was to be under suspension with immediate effect

4. That the perusal of the above referred orders would clearly show that the suspension orders were passed in the first case initially with reference to Rule 3(2) of the All India Services (Discipline and Appeal) Rules, 1969, but thereafter, vide order dated 20.11.2020, Rule 3(3) of the All India Services (Discipline and Appeal) Rules, 1969 was invoked and the petitioner was placed under suspension w.e.f. 18.02.2019. The 1st suspension order was passed with reference to FIR No. 129 dated 07.08.2018. As far as, the specific order of suspension is concerned namely dated 20.11.2020 which was passed with reference to FIR No. 130 dated 21.10.2015 was with reference to Rule 3(3) of the said rules and the third suspension order dated 22.03.2021 was also passed by invoking the provisions of Rule 3(3) of the All India Services (Discipline and Appeal) Rules, 1969.

5. It would be relevant to reproduce here the Rule 3(3) of the All India Services (Discipline and Appeal) Rules, 1969:-

> *"**3(3) Suspension**: A member of the Service in respect of, or against, whom and **investigation, enquiry or trial relating to a criminal charge** is pending may, at the discretion of the Government be placed under suspension **until the termination of all proceedings relating to that charge,** if the charge is connected with his position as a member of the Service or is likely to embrace him in the discharge of his duties or involves moral turpitude."*

6. That the submission of the petitioner substantially was that the provisions of 3(8) would be applicable and would also govern the provisions of Rule 3(3) of the All India Services (Discipline and Appeal) Rules, 1969. The submission of the respondent-State on the other hand is that Rule 3(8) cannot control the provisions of Rule 3(3) since both are the sub rules of Rule 3 and have to exist independently. The perusal of Rule 3 would show that the member of the Service in respect of, or against, whom any investigation, enquiry **"or trial"** relating to a criminal charge is pending may, at the discretion of the Government, be placed under suspension until the termination of all proceedings relating to that charge. Therefore, if the powers given under Rule 3(3) are invoked then the suspension can continue until the termination of all the proceedings relating to that charge. Admittedly, the criminal proceedings with respect to the FIR No. 129 dated 07.08.2018; FIR No. 130 dated 21.10.2015 and FIR No. 147 dated 06.11.2020 are pending under trial and therefore, in view of the provisions of Rule 3(3), suspension can be kept continued until the termination of all the proceedings relating to that charge.

It is submitted that if the provisions of Rule 3(8) are made applicable

to Rule 3(3) then Rule 3(3) would become meaningless and otiose. Thus, the period mentioned under Rule 3(8) cannot be applied to Rule 3(3) also. The very purpose of framing of Rule 3(3) would stand defeated if the period mentioned in Rule 3(8) is made applicable to Rule 3(3) also. If the intention of the framers of these rules was to make Rule 3(3) subservient to Rule 3(8) it could have been mentioned in the Rule 3(3) itself as has been mentioned in Rule 3(7) (b) which for the sake of relevance is reproduced hereinbelow:-

> *"(7) (b) Where a member of the Service is suspended or is deemed to have been suspended, whether in connection with any disciplinary proceeding or otherwise and any other disciplinary proceeding is commenced against him during the continuance of that suspension, the authority competent to place him under suspension may, for reasons to be recorded in writing, direct that the member of Service* ***shall continue to be under suspension subject to sub-rule (8)."***

7. Therefore, it is clear that the Rule framers did not intend to make Rule 3(3) as subservient to Rule 3(8) otherwise they could have used the expression "subject to sub-rule 3(8), in Rule 3(3) also as used in Rule 3(7)(b).

It is submitted that the case of Ajay Kumar Choudhary vs. Union of India & another reported as (2015) 7 SCC 291 does not deal with Rule 3(3) of All India Services (Discipline and Appeal) Rules, 1969.

8. That as far as, the provisions of Rule 3(1B) are concerned it would be relevant to mention here that the same has been made with reference to the disciplinary proceedings only and not with respect to the criminal proceedings for which the clear reference has been made under Rule 3(3).

This is so because the provisions of Rule 3(1B) do not mention criminal proceedings or pendency of a trial at all and therefore, the interpretation of Rule 3(3) cannot be controlled by the provisions of Rule 3(1B).

9. It is submitted that expression which has been used in the said sub-rule 1(B) is the "Inquiry" but there is no reference to "investigation" or "trial". This would further be clear by reading the second proviso to sub-rule 3(1(B)) which provides that the period during which "the disciplinary proceedings" remain stayed due to the order of the court of law shall be excluded from the limit of one year. In other words, the use of the expression period under Rule 1(B) refers to disciplinary proceedings only and not applicable to criminal proceedings.

10. That as far as, the amended procedure (Annexure P-22 of the writ petition) to be followed for suspension of All India Service employee is concerned, the same deals with Rule 3 but does not cause any modification of Rule 3(3). In other words, the said procedure would be applicable with reference to the disciplinary proceedings only and not with respect to the criminal proceedings which have been specifically mentioned under Rule 3(3).

11. That if the period mentioned in Rule 3(8) is made applicable to Rule 3(3) then the said sub-rule 3 of Rule 3 would become otiose, but, on the other hand, if the Rule 3(3) stands independently and made applicable in the case of pendency of criminal proceedings and the trial, Rule 3(8) does not become otiose, and, both the provisions would exist and can be made applicable by keeping in mind that sub- rule 3 of Rule 3 is an exception only.

12. That the law relating to harmonious interpretation is clear and all that

interpretation is to be avoided which would make a certain provision as a dead letter. The law is also settled that no words can be added or substituted by the court of law to change the meaning of the words which otherwise have been specifically provided under the particular provision. In other words, once the provisions of Rule 3(3) specifically provide for continuation of suspension "until the termination of proceedings relating to that charge" the same cannot be limited by any period by incorporating with wording of sub-rule 8 in sub-rule 3 of Rule 3. If it was intended to be done, it could have been done by the framers of the Rules.

13. That where there is a general provision and special provision, then special provision would always prevail and the effect of the special provision cannot be curtailed by the contents of the general provision. Rule 3(3) is a special provision and therefore, its effect cannot be curtailed by application of the contents of Rule 3(8). It would be relevant to refer here the judgment passed by the Hon'ble Supreme Court of India in the case of Sultana Begum Vs. Prem Chand Jain reported in 1997 AIR (Supreme Court) 1006 and para 20 of the said judgment is reproduced hereinbelow:-

> *"20. The general power of deciding questions relating to execution, discharge or satisfaction of decree under Section 47 can thus be exercised subject to the restriction placed by Order 21 Rule 2 including sub-rule (3) which contain special provisions regulating payment of money due under a decree outside the court or in any other manner adjusting the decree. The general provision under Section 47 had, therefore, to yield to that extent to the special provisions contained in Order 21 Rule 2 which have been enacted to prevent a judgment- debtor*

from setting up false, or cooked-up pleas so as to prolong or delay the execution proceedings."

14. That the law is settled that a different meaning cannot be given to a provision merely because it is onerous or may cause hardship to the litigant.

15. That it has been held by the Hon'ble Supreme Court of India in the case of Allahabad bank Vs. Deepak Kumar Bhola reported in 1997 (4) SCC I and the para 12, 13 and 14 of the said judgment is as follows:-

"12..... We are, to say the least, surprised at the conclusion which has been arrived by the Allahabad High Court. There was material on record before the appellant, in the form of the report of the C.B.I./S.P.E., which clearly indicated the acts of commission and omissions, amounting to "moral turpitude" alleged to have been committed by the respondent. Furthermore, ***the respondent has been charged with various offences*** *allegedly committed while he was working in the bank and punishment for which could extend upto ten years imprisonment (in case the respondent is convicted under Section 467 Indian Penal Code)*

13. We are unable to agree with the contention of learned counsel for the respondent that there has been no application of mind or the objective consideration of the facts by the appellant before it passed the orders of suspension. As already observed, the very fact ***that the investigation was conducted by the C.B.I. which resulted in the filing of a charge-sheet****, alleging various offences having been committed by the respondent, was sufficient for the appellant to conclude* ***that pending prosecution the respondent should be suspended.*** *It would be indeed inconceivable that a bank should allow*

an employee to continue to remain on duty when he is facing serious charges of corruption and mis-appropriation of money Allowing such an employee to remain in the seat would result in giving him further opportunity to indulge in the acts for which he was being prosecuted. Under the circumstances, it was the bounden duty of the appellant to have taken recourse to the provisions of clause 19.3 of the First Bipartite Settlement, 1966. ***The mere fact that nearly 10 years have elapsed since the charge-sheet was filed, can also be no ground for allowing the respondent to come back to duty on a sensitive post in the bank, unless he is exonerated of the charge****.*

14. In our opinion, the High Court was not justified in quashing the orders of suspension....."

16. That the Hon'ble Supreme Court of India in the case of A.K.K. Nambiar Vs. Union of India and another reported in AIR 1970 SC 652 has held as follows:-

"7. The pre-eminent question in this appeal is ***whether the order of suspension is in infraction of Rule 7****.*

Rule 7 is as follows-

"(1) having regard to the nature of the charges and the circumstances in any case the Government which initiates any disciplinary proceeding is satisfied that it is necessary or desirable to place under suspension the member of the Service against whom such proceedings are started that Government may-

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(3) A member of the Service in respect of, or ***against whom, an***

> ***investigation, inquiry or trial relating to a criminal charge is pending*** *may, at the discretion of the Government under which he is serving,* ***be placed under suspension until the termination of all proceedings relating to that charge****, if the charge is connected with his position as a Government servant or is likely to embarrass him in the discharge of his duties or involves moral turpitude".*
>
> *10. ……..The facts are that there was an investigation and* ***the trial is awaiting relating to a criminal charge*** *against the appellant. The order of suspension has to be read in the context of the entire case and combination of circumstances. This order indicates that the Government applied its mind to the allegations, the enquiries and the circumstances of the case. The appellant has failed to establish that the Government acted mala fide. There is no allegation against any particular officer of the Government of India about acting mala fide.* ***The order of suspension was made under sub-rule (3) and does not suffer from any vice of infringement of Rule 7."***

17. That on the question of continuity of suspension with reference to criminal proceedings and deemed suspension on arrest, the Hon'ble Supreme Court of India in the case of Union of India Vs. Rajiv Kumar reported in 2003(6) SCC 516 has held as follows:-

> *"10. Rule 10 is the pivotal provision around which the controversy revolves, and it reads as follows:*
>
> *Rule 10. Suspension*

(1) The appointing authority or any authority to which it is subordinate or the disciplinary authority or any other authority empowered in that behalf by the President, by general or special order, ***may place a Government servant under suspension -***

(a) where a disciplinary proceeding against him is contemplated or is pending: or

(aa) where, in the opinion of the authority aforesaid, he has engaged himself in activities prejudicial to the interest of the security of the State; or

(b) where a case against him in respect of any criminal offence is under investigation, inquiry or trial*:*

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(2) A Government servant shall be deemed to have been placed under suspension by an order of appointing authority –

(a) with effect from the date of his detention, if he is detained in custody, whether on a criminal charge or otherwise, for a period exceeding forty- eight hours;

(b) with effect from the date of his conviction, if, in the event of a conviction for an offence, he is sentenced to a term of imprisonment exceeding forty-eight hours and is not forthwith dismissed or removed or compulsorily retired consequent to such conviction.

EXPLANATION-The period of forty-eight hours referred to in clause (b) of this subrule shall be computed from the commencement of the imprisonment after the conviction and for

this purpose, intermittent periods of imprisonment, if any, shall be taken into account.

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(5)(a) An order of suspension made or deemed to have been made under this rule shall continue to remain in force until it is modified or revoked by the authority competent to do so.

5(b) Where a Government servant is suspended or is deemed to have been suspended (whether in connection with any disciplinary proceeding or otherwise), and any other disciplinary proceeding is commenced against him during the continuance of that suspension, the authority competent to place him under suspension may, for reasons to be recorded by him in writing, direct that the ***Government servant shall continue to be under suspension until the termination of all or any of such proceedings****.*

5(c) An order of suspension made or deemed to have been made under this rule may at any time be modified or revoked by the authority which made or is deemed to have made the order or by any authority to which that authority is subordinate."

11. ***Rule 10(2)*** *is a deemed provision and creates a legal fiction. A bare reading of the provision shows that an actual order is not required to be passed. That is deemed to have been passed by operation of the legal fiction. It has as much efficacy, force and operation as an order otherwise specifically passed under other provisions.* ***It does not speak of any period of its effectiveness****. Rules 10(3) and 10(4) operate conceptually in*

different situations and need specific provisions separately on account of interpretation of an order of Court of law or an order passed by the Appellate or reviewing authority and the natural consequences inevitably flowing from such orders. Great emphasis is laid on the expressions "until further orders" in the said sub-rules to emphasise that such a prescription. is missing in Sub-rule (2). ***Therefore, it is urged that the order is effective for the period of detention alone****. The plea is clearly without any substance because of Sub-Rule 5(a) and 5(c) of Rule 10. The said provisions refer to an order of suspension made or deemed to have been made. Obviously, the only order which is even initially deemed to have been made under Rule 10 is one contemplated under Sub-Rule (2). The said provision under* ***Rule 10(5)(a) makes it crystal clear that the order continues to remain in force until it is modified or revoked by an authority competent to do so while Rule 10(5)(c) empowers the competent authority to modify or revoke also****. No exception is made relating to an order under Rules 10(2) and 10(5) (a). On the contrary, specifically it encompasses an order under Rule 10(2).* ***If the order deemed to have been made under Rule 10(2) is to lose effectiveness automatically after the period of detention envisaged comes to an end, there would be no scope for the same being modified as contended by the respondents*** *and there was no need to make such provisions as are engrafted in Rule 10(5)(a) and instead an equally deeming provision to bring an end to the duration of the deemed order*

would by itself suffice for the purpose.

Thus, it is clear that the order of suspension does not lose its efficacy and is not automatically terminated the moment the detention comes to an end and the person is set at large. *It could be modified and revoked by another order as envisaged under Rule 10(5)(c)* ***and until that order is made, the same continues by the operation of Rule 10(5)(a) and the employee has no right to be re-instated to service.....***

14. It is well settled principle in law that the Court cannot read anything into a statutory provision or rewrite a provision which is plain and unambiguous. A statute is an edict of the Legislature. The language employed in a statute or any statutory provision is the determinative factor of legislative intent of policy makers.

18. While interpreting a provision, the Court only interprets the law and cannot legislate it. ***If a provision of law is misused and subjected to the abuse of process of law, it is for the legislature to amend, modify or repeal it, if deemed necessary.*** *(See Commissioner of Sales Tax, M.P. v. Popular Trading Company, Ujjain, 2000(5) SCC 511).* ***The legislative casus omissus cannot be supplied by judicial interpretative process.***

22. The inevitable conclusion therefore is that the order in terms of Rule 10(2) is not restricted in its point of duration or efficacy to the period of actual detention only. It continues to be operative unless modified or revoked under Sub-Rule 5(c), as provided under Sub-rule 5(a).”

18. That no mala fide has been alleged by the petitioner against anyone nor anyone has been impleaded as a party to justify any allegation of mala fide. Therefore, the exercise of discretion by the competent authority was in accordance with the provisions of law, and, no fault can be found with the exercise of discretion which was validly exercised by invoking the provisions of Rule 3(3) of the Rules. It has been held by the Hon'ble Supreme Court of India in the case of A.K.K. Nambiar (supra) wherein it has been held in para 10 as follows:-

> *"10.....This order indicates that the Government applied its mind to the allegations, the enquiries and the circumstances of the case. The appellant has failed to establish that the Government acted mala fide.* ***There is no allegation against any particular officer of the Government of India about acting mala fide. The order of suspension was made under sub-rule (3) and does not suffer from any vice of infringement of Rule 7."***

19. That the petitioner has not challenged the departmental disciplinary proceedings nor the delay in the prosecution of criminal trial because for that purpose the petitioner has separate remedies available to him under the Code of Criminal Procedure which he could have invoked in accordance with law. But mere delay in the disciplinary proceedings or the criminal trial cannot be a ground for revocation of the order of suspension when the order has been passed in view of the provisions of Rule 3(3) of the Rules. On the question of delay in the pendency of the disciplinary proceedings or criminal proceedings it would be worthwhile to refer here the judgment of the Hon'ble Supreme Court in the case of Union of India vs Rajiv Kumar as

reported in 2003 (6) Supreme Court Cases 516 and para 26 of the said judgment held as follow:-

> *"The inevitable conclusion therefore is that the order in terms of Rule 10(2) is not restricted in its point of duration or efficacy to the period of actual detention only. It continues to be operative unless modified or revoked under Sub-Rule 5(c), as provided under sub-Rule 5(a)."*

Further, in para 29 of the said judgment, the Hon'ble Supreme Court held as follows:-

> *"**Another plea raised relates to a suspension for a very long period.** It is submitted that the same renders the suspension invalid. The plea is clearly untenable. The period of suspension should not be unnecessarily prolonged but if plausible reasons exist and the authorities feel that the suspension needs to be continued, **merely because it is for a long period that does not invalidate the suspension."***

In the present case, the authorities felt that in view of the pendency of the various criminal trials with reference to three FIRs (already referred to above) the invocation of Rule 3(3) was justified wherein it has been specifically provided that the officer may be placed under suspension "until the termination of all proceedings relating to that charge". Further, in para 31 of the said judgment, the Hon'ble Supreme Court held as follows:-

> "*Though factually it is undisputed that fresh order of suspension had been passed in each case, the same relates to a separate cause of action and if any dispute is raised as regards its legality, the same has to be adjudicated by the concerned*

Court or the Tribunal, as the case may be, on its own merits and in accordance with law."

20. That in the short reply filed by the respondent No.1 (Union of India) dated 11.09.2023, it has been stated in the para 13 that:

"That as far as petitioner's reliance upon judgment of Hon'ble Supreme Court in case of ***Ajay Kumar Choudhary vs. Union of India & another reported as (2015) 7 SCC 291****, it is humbly submitted that the said judgment deals with the situation where a member of service was suspended on account of* ***disciplinary proceedings*** *and not because of detention or criminal charge.* ***In the present case, the petitioner has been suspended by the respondent-State Government vide separate orders in respect of three different FIRs under Rule 3 of 1969 Rules****.*

21. That the petitioner has not challenged the vires of Rule 3(3) and since that rule is an exception to the general provisions of Rule 3, the said sub-rule 3 being an exception, has to prevail despite the general provision providing otherwise. It is also a settled law that an exception is made for a specific purpose and carved out the events covered under the other general provisions. Therefore, the provisions of Rule 3(8) of the All India Services (Discipline and Appeal) Rules, 1969 cannot be permitted to dilute the specific and explicit provisions of Rule 3(3), and, therefore, the orders of suspension passed against the petitioner have been validly passed by the competent authority by invoking the provisions of Rule 3(3), and, therefore, the writ petition is liable to be dismissed.

5. In support of his contentions, learned counsel for respondents no.3 and 4/State relied upon the following judgments:-

i) Sultana Begum Vs. Prem Chand Jain **1997 AIR (Supreme Court) C 1006;**

ii) Allahabad bank Vs. Deepak Kumar Bhola **1997 (4) SCC 1;**

iii) A.K.K. Nambiar Vs. Union of S India and another **AIR 1970 SC 652;**

iv) Union of India Vs. Rajiv Kumar **2003 (6) Supreme Court Cases 516.**

6. **We have heard learned counsel for the parties. After hearing learned counsel for the parties and perusing the whole record, we conclude as under:-**

7. A perusal of the petition shows that the petitioner received a Gallantry Award vide notification dated 10.7.1995 which is placed on record as Annexure P-1 with the petition, which shows the courage and devotion of petitioner towards his duties.

8. The relevant rules applicable in case of petitioner are **The All India Services (Discipline and Appeal) Rules, 1969 Rules**.

9. Case of the petitioner is that he was initially appointed as Deputy Superintendant of Police. Thereafter he was inducted to Indian Police Service in the year 1995. On 13.10.2015 certain protestors assembled to place Dharna at Kotkapura after hearing incidence of sacrilege of Shri Guru Granth Sahib Ji. On 14.10.2015, on the orders of State Government, the police gathered around the protesters and tried to disperse them by using mild lathi charge and water cannons. The protest turned violent and the Sub- Divisional Magistrate was constrained to open fire in the air, during which a protestor got shot in his thigh. Commission of Inquiry was constituted vide notification dated 14.04.2017 to inquire into the incidence.

10. On 07.08.2018 FIR No.129 was registered at P.S.City Kotkapura, District Faridkot, Punjab on the recommendation made by the Commission. The petitioner was later arrayed as an accused in the said FIR. On 23.08.2018 a show cause notice was sent. On 04.02.2020 the petitioner filled an appeal/ representation under Rule 16 of the 1969 rules to the Respondent No. 4, while relying on 1969 Service Rules to state that the suspension was valid only for a period of 60 days and the same not having been reviewed by the competent authority, therefore, the petitioner is legally entitled to reinstatement. There was no response. The petitioner filed the second appeal to Respondent No. 1 on 25.02.2020 but the respondents did not revoke the suspension order on completion of 60 days and there was no recommendation of the review committee also. Then respondent no. 1 sought report from respondent No.3.

11. Respondent No. 3 had again intimated the petitioner to reply to the show cause notice dated 23.08.2018. The detailed reply was also submitted on 13.07.2020. The respondent no. 3 served the charge-sheet on 24.09.2020 to the petitioner under Rule 8 of the 1969 Rules for imposition of major penalty upon the petitioner. On 20.11.2020 respondent no.3, after a period of 21 months modified the first suspension order dated 18.02.2019 to the effect that now retrospective suspension was sought to be achieved. The first order dated 18.02.2019 under Rule 3 (2) has been modified and the same has been invoked under Rule 3 (3) of the 1969 Rules saying that the petitioner is kept under suspension until termination of criminal/ departmental proceedings.

12. In FIR No. 130 dated 21.10.2015 Special Investigation Team was constituted for investigating the incidents of sacrilege of Shri Guru Granth Sahib Ji in village Behabl, District Faridkot. The petitioner was placed under suspension under Rule 3 (3) of All India Services Discipline and Appeal Rules 1969 in

furtherance of FIR.No. 130 dated 21.10.2015 vide order 20.11.2020.

13. FIR No. 147 dated 06.11.2020 was registered at STF, Amritsar, under Sections 21/23/25/27A/29 NDPS Act, Section 25 of the Arms Act and Section 420/471/472 IPC against the petitioner alleging his role while performing his duty as Deputy Inspector General of Police, Range, District Ludhiana. Respondent No. 3 vide order dated 22.03.2021 issued the third suspension order against the applicant under Rule 3 (3) of 1969 Rules.

14. The petitioner filed O.A No.60/695/2022 before the Central Administrative Tribunal, Chandigarh Bench challenging the orders of suspension dated 26.2.2019 (Annexure P-3), 20.11.2020 (Annexure P-17) and 22.3.2021 (Annexure P-18). Learned C.A.T (for short) dismissed the O.A filed before it vide order dated 1.2.2023, which is impugned in the present writ petition. The relevant portion of the same is extracted hereunder:-

> ***"31****. In the present case, deemed suspension order was w.e.f. 18.02.2019 vide order dated 26.02.2019 under All India Service (Discipline & Appeal) Rules, 1969. The same was modified by a Review Committee set up under Rule 3 (8) (c) and based on its report in the discretion of the Government, order was modified to be suspension under Rule 3(3) vide order dated 20.11.2020. This was done as criminal proceedings were pending (Annexure A-16).*
>
> ***32****. Deemed suspension was converted to suspension under rule 3(3) owing to charges being framed/criminal trial pending.* ***Rule 3(3) has to be read in its entirety alongwith Rule 3(7) which allows suspension remain in force unless revoked/modified by the Competent Authority. So, harmonious constructs of the statute has to be attempted as per fact of the case.*** *In this case, criminal case and*

disciplinary proceedings are pending against the applicant which include investigation/inquiry/trial and there is no ambiguity in the orders passed by the competent authority.

33. *The applicant had also approached the Hon'ble High Court of Punjab and Haryana in CWP No. 22703/2020 wherein the Hon'ble High Court had disposed of the writ petition with liberty to the petitioners to address arguments at the time of framing the charges before the competent court of law. The said order had been passed by the Hon'ble High Court of Punjab and Haryana on 04.07.2022 (Annexure R-6).*

34. *As the three FIRs No. 129, 130 and 147 have been filed against the applicant and as per Annexures R-2, R-3 and R-4, the applicant is alleged to be involved in the incidents, as per Rule 3(3) of the All India Services (Discipline & Appeal) Rules, 1969, the suspension order has been invoked. Though the applicant had relied upon the judgment passed by the Apex Court in the matter of Ajay Kumar Chaudhary (supra), but the same cannot be relied upon due the fact that specific provisions of Rule 3 (3) of All India Services (Discipline & Appeal) Rules, 1969, have been invoked.*

35. *In view of the above, this Tribunal does not find any merit in the present Original Application and accordingly, the same is dismissed.*

36. *There shall be no order so as to costs."*

15. A perusal of the order passed by the learned Central Administrative Tribunal mentioned above shows that only by relying upon Rule 3(3) of All India Service (Appeal and Discipline) Rules, 1969, the O.A filed by the petitioner has

been dismissed. Further by stating that the deemed suspension order w.e.f 18.02.20219 vide order dated 26.02.2019 under All India Service (Appeal and Discipline) Rules, 1969 was modified by Review Committee set up under Rule 3(8) and based on its report in the discretion of government has put suspension under Rule 3(3) vide order dated 20.11.2020.

16. In the next para, learned Central Administrative Tribunal while deciding the OA has observed that deemed suspension under Rule 3(2) was converted to under Rule 3(3) of the All India Service (Appeal and Discipline) Rules, 1969. Charges being framed/criminal trial pending. Further that Rule 3(3) has to be read in its entirety alongwith Rule 3(7) which allows suspension remain in force unless revoked/modified by the Competent Authority.

17. While deciding OA filed by the petitioner learned Central Administrative Tribunal has held that Rule 3(3) is to be read in its entirety along with Rule 3(7), whereas it is specifically stated in Rule 7(b) that the member of service shall continue to be under suspension subject to sub-rule (8). Just by stating that three FIRs have been filed against the petitioner/applicant, therefore Rule 3(3) of the All India Service (Appeal and Discipline) Rules, 1969 has been invoked. No contention and no discussion regarding the application of Rules is there in the impugned order dated 01.02.2023 (Annexure P-31).

18. Since the petitioner was suspended under Rule 3(3) of the 1969 Rules, therefore, for proper adjudication of the present case it would be necessary to reproduce Rule 3 of 1969 Rules, which reads as under :-

> **3. Suspension.-**
>
> (1) If, having regard to the circumstances in any case and, where articles of charge have been drawn up, the nature of the charges, the Government of a State or the Central Government, as the case may be,

is satisfied that it is necessary or desirable to place under suspension a member of the Service, against whom disciplinary proceedings are contemplated or are pending, that Government may---

(a) if the member of the Service is serving under that Government, pass an order placing him suspension, or

(b) if the member of the Service is serving under another Government request that Government to place him under suspension, pending the conclusion of the disciplinary proceedings and the passing of the final order in the case.

(c) IAS officers working under Central Government shall only be suspended on the recommendations of the Central Review Committee as amended with the approval of Minister-in-charge, Department of Personnel & Training.

Provided that, in cases, where there is a difference of opinion,

(1) between two State Governments, the matter shall be referred to the Central Government for its decision:

(ii) between a State Government and the Central Government, the opinion of the Central Government shall prevail:

Provided further that the Chief Secretary, Director General of Police and the Principal Chief Conservator of Forests, who are the heads of the respective Services, shall not be placed under suspension without obtaining prior approval of the Central Government.

Provided also that, where a State Government passes an order placing under suspension a member of the Service against whom disciplinary proceedings are contemplated, such an order shall not be valid unless, before the expiry of a period of thirty days from the date from which

the member is placed under suspension, or such further period not exceeding thirty days as may be specified by the Central Government for reasons to be recorded in writing, either disciplinary proceedings are initiated against him or the order of suspension is confirmed by the Central Government.

(1A) If the Government of a State or the Central Government, as the case may be, is of the opinion that a member of the Service has engaged himself in activities prejudicial to the interests of the security of the State, that Government may-

(a) if the member of the Service is serving under that Government, pass an order placing him under suspension, or

(b) if the member of the Service is serving under another Government, request that Government to place him under suspension, till the passing of the final order in the case:

Provided that, in cases, where there is a difference of opinion

(1) between two State Governments, the matter shall be referred to the Central Government for its decision;

(2) between a State Government and the Central Government, the opinion of the Central Government shall prevail.

(1B) The period of suspension of a member of the Service on charges other than corruption shall not exceed one year and the Inquiry shall be completed and appropriate order shall be issued within one year from the date of suspension falling which the suspension order shall automatically stand revoked:

Provided that the suspension can be continued beyond one year only on the recommendations of the Central Ministry's Review

Committee:

Provided further that the period during which the disciplinary proceedings remain stayed due to orders of a Court of Law, shall be excluded from this limit of one year.

(1C) The period of suspension of a member of the Service on charges of corruption shall not exceed two years and the inquiry shall be completed and appropriate order shall be issued within two years from the date of suspension failing which the suspension order shall automatically stand revoked:

Provided that the suspension can be continued beyond two years only on the recommendations of the Central Ministry's Review Committee:

Provided further that the period during which the disciplinary proceedings remain stayed due to orders of a Court of Law, shall be excluded from this limit of two years.

(1D) The composition and functions of the Central Ministry's Review Committee and the procedure to be followed by them shall be as specified in Schedule 2 annexed to these rules.

(2)A member of the Service who is detained in official custody whether on a criminal charge or otherwise for a period longer than forty-eight hours, shall be deemed to have been suspended by the Government concerned under this rule.

(3) A member of the Service in respect of, or against, whom an investigation, inquiry or trial relating to a criminal charge is pending may, at the discretion of the Government be placed under suspension until the termination of all proceedings relating

to that charge, if the charge is connected with his position as a [member of the Service] or is likely to embarrass him in the discharge of his duties or involves moral turpitude.

(4) A member of the Service shall be deemed to have been placed under suspension by the Government concerned with effect from the date of conviction. If, in the event of conviction for a criminal offence, if he is not forthwith dismissed or removed or compulsorily retired consequent on such Conviction provided that the conviction carries a sentence of Imprisonment exceeding forty-eight hours.

Explanation – The period of forty-eight hours referred to in sub-rule (4) shall be commuted from the commencement of the imprisonment after the conviction and for this purpose, intermittent periods of imprisonment, if any, shall be taken into account.

(5) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a member of the Service under suspension is set aside in appeal or on review under these rules and the case is remitted for further Inquiry or action or with any other directions, the order of his suspension shall be deemed to have continued in force on and from the date of the original order of dismissal, removal or compulsory retirement and shall remain in force until further orders.

(6) Where a penalty of dismissal, removal or compulsory retirement from service imposed upon a member of the Service is set aside or declared or rendered void in consequence of or by a decision of a Court of Law, and the disciplinary authority, on a consideration of the circumstances of the case, decides to hold further inquiry against him

on the allegations on which the penalty of dismissal, removal or compulsory retirement was originally imposed, the member of the Service shall be deemed to have been placed under suspension by the Central Government from the date of original order of dismissal, removal or compulsory retirement and shall continue to remain under suspension until further orders:

Provided that no such further inquiry shall be ordered unless it is intended to meet a situation where the court has passed an order purely on technical grounds without going into the merits of the case.

(6A) Where an order of suspension is made, or deemed to have been made, by the Government of a State under this rule, detailed report of the case shall be forwarded to the Central Government within a period of fifteen days of the date on which the member of the Service is suspended or is deemed to have been suspended, as the case may be.

(7) (a) An order of suspension made or deemed to have been made under this rule shall continue to remain in force until it is modified or revoked by the authority competent to do so.

(b) Where a member of the Service is suspended or is deemed to have been suspended, whether in connection with any disciplinary proceeding or otherwise, and any other disciplinary proceeding is commenced against him during the continuance of that suspension, the authority competent to place him under suspension may, for reasons to be recorded in writing, direct that the member of Service shall continue to be under suspension subject to sub-rule (8).

(c) An order of suspension made or deemed to have been made

under this rule may at any time be modified or revoked by the authority which made or deemed to have made the order.

(8) (a) An order of suspension made under this rule which has not been extended shall be valid for a period not exceeding sixty days and an order of suspension which has been extended shall remain valid for a further period not exceeding one hundred-twenty days, at a time, unless revoked earlier.

(b) An order of suspension made or deemed to have been made or continued shall be reviewed by the competent authority on the recommendations of the concerned Review Committee.

(c) The composition and functions of the Review Committees and the procedure to be followed by them shall be as specified in the Schedule 1 annexed to these rules.

(d) The period of suspension [under this rule] may, on the recommendations of the concerned Review Committee, be extended for a further period not exceeding one hundred and eighty days at a time:

Provided that where no order has been passed under this clause, the order of suspension shall stand revoked with effect from the date of expiry of the order being reviewed.

(9) (a) Every order of suspension and every order of revocation shall be made in the stipulated standard form appended to these rules;

(b) A copy of the order shall be endorsed to the Appointing Authority, if the order is made by some other authority; and to the Lending Authority in the case of borrowed officer;

(c) The reasons for issue of every such order shall be communicated

to the Appointing Authority and the Lending Authority, through confidential letters alongwith the order itself; and

(d) A copy of the suspension order alongwith the reasons or grounds of suspension shall be communicated to the Cadre Controlling authority in the Central Government not later than forty-eighty hours.

(10) As soon as a member of the Service is placed under suspension or is deemed to have been placed under suspension, the information in this regard shall be communicated to Government of India expeditiously and within the period of forty-eighty hours.

accepted the advice of the Commission, a brief statement of the reasons for such non- acceptance.

19. A bare reading of Rule 3(8)(c) of 1969 Rules shows that the composition and function of the Review Committee and the procedure to be followed by them shall be as specified in the Schedule 1 annexed to these rules, meaning thereby that it is mandatory to follow Schedule -1.

20. The 1969 Rules were amended vide notification dated 21.12.2015 and the same is reproduced hereunder:-

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS
(Department of Personnel and Training)

NOTIFICATION

New Delhi, the 21 December, 2015

G.S.R.1001(E).-In exercise of the powers conferred by sub-section (1) of Section 3 of the All India Services Act, 1951 (61 of 1951), the Central Government, after consultation with the State Governments, hereby makes the

following rules further to amend the All India Services (Discipline and Appeal) Rules, 1969, namely:-

1. (1) These rules may be called the All India Services (Discipline and Appeal) Amendment Rules, 2015.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the All India Service (Discipline and Appeal) Rules, 1969 (hereinafter referred to as the said rules), in Rule 3-

(i) in sub-rule (1), in the third proviso, for the words "forty-five days" occurring at both the places, the words "thirty days" shall be substituted;

(ii) a new sub-sub-rule (c) under sub rule(1) of rule 3 shall be inserted, namely:-

"(c) IAS officers working under Central Government shall only be suspended on recommendations of the Central Review Committee as amended with the approval of Minister-in- charge, Department of Personnel & Training."

(iii) in sub-sub rule (a) of sub-rule(8) of rule 3, the words **'ninety days'** and **'one hundred-eighty days'** shall be substituted with the words **"sixty days"** and **"one hundred-twenty days"** respectively."

21. The **first suspension order** of the petitioner is dated 26.2.2019 and the same is reproduced as under:-

GOVERNMENT OF PUNJAB
DEPARTMENT OF HOME AFFAIRS AND JUSTICE
(HOME-1 BRANCH)
OFFICE ORDER

As reported by DGP. Punjab, Sh. Paramraj Singh Umaranangal, IPS (PB:1995). Inspector General of Police/Policy & Rules, Pb., Chg. Has been arrested in case FIR No. 129 dt. 7.8.2018 under Kotakpura (District Faridkot) on 18.02.2019 by SIT. At present, he is in police custody in Police Station Sadar, Faridkot.

2 As per rule 3(2) of the All India Services (Discipline & Appeal) Rules:

"A member of the service who is detained in official custody whether on a criminal charge or otherwise for a period longer than forty-eight hours, shall be deemed to have been suspended by the Government concerned under this rule."

3. In pursuance of the said rule Sh. Paramraj Singh Umaranangal, IPS shall be deemed to have been placed under suspension w.e.f 18.02.2019.

4 During suspension period his headquarter will be the office of Director General of Police, Punjab, Chandigarh and he will not leave it without the permission of the competent authority. During suspension period he will be entitled to suspension allowance as permissible under rules.

Nirmal Singh Kalsi, IAS
Dated, Chandigarh Additional Chief Secretary, to Govt. of Punjab
26.02.2019 Department of Home Affairs & Justice

22. The first suspension order was passed on 26.02.2019, whereby the petitioner was suspended w.e.f 18.02.2019, as per Rule 3(2) of All India Services (Discipline and Appeal) Rules, 1969.

23. The **second suspension order** of the petitioner is dated 20.11.2020 which is reproduced as under:-

ORDER OF THE GOVERNOR OF PUNJAB

(Sh. Paramraj Singh Umranangal, IPS (under suspension) has been nominated as accused in FIR No. 130, dated 21.10.2015 u/s 302/307/218/201/166A/194/195/109/34/120-B JPC, 25,27,59 Arms Act, P.S City Bajakhana, Distt, Faridkot, as reported by office of DGP Punjab vide letter No. 19721/Con.SA-1(1), dated 06.11.2020. The case was placed before the review committee, constituted under Rule 3(8) (c), who has recommended that Sh. Paramraj Singh Umranangal, IPS to be placed under suspension w.e.f. 26.09.2020 under Rule 3(3) of the All India Services (Discipline & Appeal) Rules, 1969.

2. Rule 3(3) of the All India Services (Discipline & Appeal) Rules, 1969. is as follows:-

> "*3(3) Suspension: member of the Service in respect of, or against, whom and investigation, enquiry or trial relating to a criminal charge is pending bail, at the discretion of the Government be placed under suspension until the termination of all proceedings relating to that charge, if the charge is. connected with his position as a member of the Service or is likely to embrace him in the discharge of his duties or involved moral turpitude.....*

3. As the case of the delinquent is fully covered under aforesaid Rule, after consideration of recommendation of the Review Committee and after applying due diligence, Sh. Paramraj Singh Umranarigal, IPS is hereby placed under suspension w.e.f. 26.09.2020.

4. During suspension period his headquarter will be the office of Director General of Police, Punjab, Chandigarh and he will not leave it without the permission of the competent authority. During suspension period he will be

entitled to suspension allowance as permissible under rules.

Dated, Chandigarh,
the 20 November, 2020

Anurag Agarwal, IAS
Additional Chief Secretary, to Govt. of Punjab
Department of Home Affairs & Justice".

24. **Now coming to Second suspension order**, vide Suspension Order dated 20.11.2020 again it was on the recommendation of the Review Committee constituted under Rule 3(8) (c) of the All India Services (Discipline and Appeal) Rules, 1969 that the petitioner was placed under suspension w.e.f 26.09.2020 under Rule 3 (3) of the said Rules. A perusal of the same shows that this suspension order is again on the recommendation of the Review Committee and after applying due diligence, the petitioner was placed under suspension.

25. The **third suspension order** of the petitioner is dated 22.3.2021 which is reproduced as under:-

GOVERNMENT OF PUNJAB
DEPARTMENT OF HOME AFFAIRS AND JUSTICE
(HOME-I BRANCH)

ORDER OF THE GOVERNOR OF PUNIAB

As reported by Police Department, during course of investigation carried out in connection with FIR No.147, dated 06.11.2020 registered u/s 21/23/25/27-A/29 NDPS Act, 25 Arms Act & 420, 471, 472 IPC, P.S. STF, Phase-IV, S.A.S. Nagar the role of Sh. Paramraj Singh Umranangal, IPS (under suspension) has come to the notice while performing his duty as Deputy Inspector General of Police, Ludhiana Range, Ludhiana.

2. Proviso laid down under Rule 3(3) of the All India Services (Discipline & Appeal) Rules, 1969 is as follows:-

> **3(3) Suspension: member of the Service in respect of, or against, whom and investigation, enquiry or trial relating to a criminal charge is pending bail, at the discretion of the Government be placed under suspension until the termination of all proceedings relating to that charge, if the charge is connected with his position as a member of the Service or is likely to embrace him in the discharge of his duties or involved moral turpitude....."*

3. As the case of the delinquent officer is fully covered under aforesaid Rule, after consideration of recommendations of DGP, Punjab and applying due diligence, Sh. Paramraj Singh Umranangal, IPS is hereby placed under suspension with immediate effect.

4. During suspension period his headquarters will be the office of Director General of Police, Punjab, Chandigarh and he will not leave it without the permission of the competent authority. During suspension period he will be entitled to suspension allowance as permissible under rules.

Anurag Agarwal,
Addl. Chief Secretary, to Govt. of Punjab Department of Home Affairs & Justice

Place, Chandigarh,
Dated 20th March, 2021

26. A perusal of the suspension order dated 22.03.2021 shows that by mentioning therein Rule 3(3) of All India Services (Discipline and Appeal) Rules, 1969, on the recommendation of DGP Punjab and after applying the due diligence the petitioner was placed under suspension with immediate effect.

27. The **order dated 20.11.2020** is reproduced as under:-

GOVERNMENT OF PUNJAB
DEPARTMENT OF HOME AFFAIRS AND JUSTICE
(HOME-I BRANCH)

ORDER OF THE GOVERNOR OF PUNJAB

Sh. Paramraj Singh Umranangal, IPS was placed under suspension w.e.f. 18.02.2019, on account of his arrest in connection with FIR No.129, dated 07.08.2018 registered u/s 307/323/201/ 218/120-B / 34 IPC and 27 Arms Act, P.S. City Kotkapura, Distt. Faridkot, under Rule 3(2) of the All India Services (Discipline & Appeal) Rules, 1969, vide State Government order dated 26.02.2019.

2. Rule 3(3) of the All India Services (Discipline & Appeal) Rules, 1969 is as follows:-

> *"3(3) Suspension: member of the Service in respect of, or against, whom and investigation, enquiry or trial relating to a criminal charge is pending bail, at the discretion of the Government be placed under suspension until the termination of all proceedings relating to that charge, if the charge is connected with his position as a member of the Service or is likely to embrace him in the discharge of his duties or involved moral turpitude....."*

3. Presently following Criminal cases and departmental proceedings are pending against the delinquent:-

1. FIR No.129, dated 07.08.2018 registered u/s 307/323/ 201/218/120-B / 34 IPC and 27 Arms Act, P.S. City Kotkapura, Distt. Faridkot.

2. No.130, dated 21.10.2015 registered u/s 302/307/ 218/201/166A/194/195/109/34/120-B IPC, 25, 27, 59 Arms Act, P.S. City Bajakhana, Distt. Faridkot.

3. Charge-sheet issued vide Govt. Memo No. 02/06/2019- 2H1/1871, dated 24.09.2020 under Rule 8 of All India Services (Discipline & Appeal) Rules, 1969.

4. Accordingly case of the delinquent is fully covered under aforesaid provisions of law. Consequently as per recommendations of Review Committee constituted under Rule 3(8) (c) and after applying due diligence, Sh. Paramraj Singh Umranangal, IPS is placed under suspension w.e.f. 18.02.2019 by invoking the rule 3(3) of the All India Services (Discipline & Appeal) Rules, 1969 by partially modifying the State Government order dated 26.02.2019 issued vide Endstt. No.02/06/2019-1H1/467-474, dated 27.02.2019.

5. During suspension period his headquarter will be the office of Director General of Police, Punjab, Chandigarh and he will not leave it without the permission of the competent authority. During suspension period he will be entitled to suspension allowance as permissible under rules.

Anurag Agarwal, IAS
Additional Chief Secretary, to Govt. of Punjab
Department of Home Affairs & Justice

Dated, Chandigarh
the 20th November, 2020

28. Vide order dated 20.11.2020 i.e. after a period of about 630 days by reproducing Rule 3(3) of All India Services (Discipline and Appeal) Rules, 1969 and by stating therein that as per the recommendation of Review Committee constituted under Rule 3(8)(c) and after applying due diligence the petitioner was placed under suspension w.e.f 18.02.2019 by invoking Rule 3(3) of the All India Services (Discipline and Appeal) Rules, 1969, thereby partially modifying the State Government order dated 26.02.2019.

29. A perusal of all the suspension orders and the modification of order shows that these have been passed without application of mind since on the one hand the wording used by the respondent in the suspension orders is "as per recommendation of review committee constituted under Rule 3(8)(c) of the All India Services (Discipline and Appeal) Rules, 1969" and on the other hand the conditions mentioned in Schedule 1 are not followed by the respondent.

30. Schedule (1) of All India Services (Discipline and Appeal) Rules, 1969 deals with composition and function of the Review Committee. The same is reproduced as under :-

1. Composition of Review Committees:

(a) The Review Committee constituted by the Central Government shall consist of

(i) Secretary to the Government of India in the concerned Ministry/Department Chairman.

(ii) Additional Secretary/Joint Secretary in charge of Administration in the concerned Ministry/Department-Member.

(iii) Any other Additional Secretary/Joint Secretary in the concerned Ministry/Department-Member.

Note: The Committee may, if considered necessary, co-opt an officer of the Department of Personnel and Training with the approval of Secretary (Personnel), Ministry of Personnel, Public Grievances and Pensions.

(b) The Review Committee constituted by the State Government shall consist-

(i) Chief Secretary-Chairman.

(ii) Senior most Additional Chief Secretary/Chairman, Board of Revenue/ Financial Commissioner or an officer of equivalent rank and status - Member.

(iii) Secretary, Department of Personnel in the State Government-Member Secretary.

Note: (i) The Home Secretary/Director General (Police) of the concerned States may be co-opted wherever a case concerning a member of the Indian Police Service is considered.

(ii) The Secretary Forest/Principal Chief Conservator of forest of the concerned State may be co-opted wherever a case concerning a member of the Indian Forest Service is considered by the Committee.

(iii) In States where Civil Services Board have been constituted, the State Government may entrust the work of the Review Committee to the Board.

2. Functions:-

(a) The Review Committee/ Civil Services Board shall review the cases of officers under suspension in order to determine whether they are of sufficient grounds for continuation of suspensions.

*(b) In every case the review shall be **done within 90 days** from the date of order of the suspension. In a case where the period of suspension has been extended, the next review shall be done within a **period of 180 days** from the date of last extension.*

***3. Procedure**:-*

*(a) The Reviewer Committee/ Civil Services Board while assessing the Justification for further continuance of any suspension, shall look into the progress of any enquiry/investigation against the officer by obtaining relevant information from the authorities enquiring/investigating into the charg*es**.**

(b) The Review Committee/ Civil Services Board while examining a case shall consider the possibility of the officer under suspension tampering with the evidence, his influencing the process of enquiry or investigation and deprivation of his services during suspension.

(c) The Review Committee/Civil Services Board shall submit a detailed report to the competent authority, clearly stating its recommendations and the reasons for arriving at the recommendations relating to the continuance of suspension.

31. **Now coming to Schedule 1**, a perusal of **Functions** mentioned in Schedule 1 above shows that "in every case the review shall be done **within 90 days** from the date of order of suspension. In case where a period of suspension has been extended, the next review shall be done within **a period of 180 days**

from the date of last extension." Even as per **Functions** mentioned in Schedule 1 a particular time limit i.e. **90 days, 180 days** is a mandate.

32. But in the present case while passing order of suspension under Rule 3(3) of the Rules 1969, by placing the case before the Review Committee constituted under Rule 3(8)(c) of the Rules 1969, the State has totally ignored the Rules formulated by the Central Government.

33. State cannot pick and choose the Rules of their suitability and pass the orders without following the procedure as mentioned in the Rules.

34. A perusal of the above Schedule shows that in every case review shall be done within **90 days** from the date of order of the suspension. Further that in a case where period of suspension has been extended, the next review shall be done within a period of **180 days** from the date of last extension.

35. Whereas in the present case order dated 20.11.2020 is passed as per the recommendation of review committee constituted under Rule 3 (8) (c) of the All India Services (Discipline and Appeal) Rules, 1969 and this is passed after a period of **about 630 days**, meaning thereby the State Government totally ignored the Rules as well as Schedule while passing order against the petitioner.

36. Bare **perusal of Schedule 1 mentioned above** shows that when the respondent-State is relying upon Rule 3(8)(c) of the Rules 1969 while passing the suspension order under Rule 3(3), it is specifically mentioned in Rule 3(8)(c) and it is mandatory since the wording used is ***"the composition and functions of the Review Committee and the procedure to be followed by them shall be as specified in Schedule 1 annexed to these Rules."***

37. **Annexure-II to the 1969 Rules** is the procedure to be followed for suspension of All India Service Officers posted in Ministries/Departments/States under the 1969 Rules and the same is reproduced hereunder:-

Procedure to be followed for suspension of All India Service officers posted in Ministries/ Departments/State Governments under AIS(D&A) Rules, 1969

Rule 3 of AIS (D&A) Rules, 1969 stipulates suspension of All India Service officers. Vide Notification dated 23.12.2015 provisions of Rule 3. Rule 18 and Rule 25 of the said Rules were amended. In the light of the amendments the following procedure is to be followed by the Ministries/Departments/State Governments for suspension of All India Service officers:

i) A member of Service when placed under suspension or deemed to have been placed under suspension the information in this regard shall be communicated to Government of India expeditiously and within the period of **forty-eight hours**.

ii) A copy of suspension order along with the reasons or grounds of suspension shall be communicated to the Cadre Controlling authority in the Central Government not later than **forty-eight hours**.

iii) A member of the Service who is detained in official custody whether on a criminal charge or otherwise for a period longer than **forty-eight hours**, shall be deemed to have been suspended by the Government concerned.

iv) A detailed report of the suspension shall be forwarded to the Central Government **within a period of fifteen days** from the date on which the member of the Service is suspended or is deemed to have been suspended, as the case may be.

v) Where a State Government passes an order for suspension of a member of Service it will be valid for a **period of thirty days** from the date from which the member is placed under suspension. Further extension for **thirty days** requires confirmation by the Central Government.

vi) An order of suspension which has been extended shall remain valid for a further period not exceeding **one hundred twenty days**, at a time, unless revoked earlier on the recommendation of the Central/State Review Committee.

vii) The period of suspension may further be extended for a period of **one eighty days** at a time on the recommendation of the Central/State Review Committee (as mentioned in Schedule 1 and 2 under AIS (D&A) Rules, 1969) as the case may be.

viii) IAS officers working under Central Government shall only be suspended on the recommendations of the Central Review Committee as amended with the approval of Minister-In-charge, Department of Personnel & Training. Central Ministries shall submit proposal for suspension of a Member of Service to this Department with the approval of Minister-in-charge of that Ministry.

ix) The period of suspension of a member of Service suspended on charges other than corruption **shall not exceed one year** but the same can be continued beyond one year on the recommendations of the Central Review Committee.

x) The period of suspension of a member of Service suspended on charges of corruption **shall not exceed two years** but the same can

be continued beyond two years on the recommendations of the Central Review Committee.

xi) Appeal against suspension order shall be sent to the appellate authority along with comments **within thirty days** from the receipt of the appeal by the State Governments. If the original appeal along with the comments of the State Government is not received by the Central Government within stipulated period, the Central Government shall take a decision on the advance copy of the appeal received by them.

xii) If the memorial is against the orders of a State Government, it shall be submitted through the State Government concerned and if the memorial is against the orders of the Central Government, it shall be submitted through the Ministry or the authority concerned in the Central Government, and the State Government concerned, or as the case may be, the Ministry or authority in the Central Government shall forward the same together **within thirty days** from the receipt of the memorial by the State Governments with a concise statement of facts material thereto and, unless there are special reasons to the contrary, with an expression of its opinion thereon and if the original memorial along with the comments of the Ministry or the State Government concerned or as the case may be, is not received by the Central Government within stipulated period, the Central Government shall take decision on the advance copy of the memorial received by them.

xiii) The Review Committee constituted by the State Government shall consist :

(a) Chief Secretary-Chairman.

(b) Senior most Additional Chief Secretary/Chairman, Board of Revenue/ Financial Commissioner or an officer of equivalent rank and status Member.

(c) Secretary, Department of Personnel in the State Government Member Secretary.

xiv) The composition of Central Ministry's Review Committee as provided in para 1 of Schedule 2 shall comprise of the following:-

(i)	Secretary, Department of Personnel & Training, Govt. of India	Chariperson
(ii)	Secretary to the Government of India in the concerned Ministry/Department or a member nominated by him not below the level of Additional Secretary	Member
(iii)	Additional Secretary / Establishment Officer, Department of Personnel & Training, Govt. of India	Member

38. In Clause (v) of Annexure II that is the Procedure to be followed for suspension of All India Service Officers posted in Ministries/Departments/State Government under AIS (D&A) Rules, 1989, it is mentioned that where a State Government passes an order for suspension of a member of Service it will be valid for a period of **thirty days** from the date from which the member is placed under suspension. Further **extension for thirty days requires confirmation by the Central Government**.

39. Whereas the petitioner was suspended on 26.02.2019 w.e.f 18.02.2019 and as per the above mentioned Clause (v) of Annexure II i.e. the Procedure to be followed for suspension of All India Service Officers posted in Ministries/Departments/State Government under AIS(D&A) Rules, 1989, the

suspension order dated 26.02.2019 would be valid upto 20.03.2019 (period of 30 days). It is specifically mentioned in the above mentioned clause (v) of the Procedure that further extension of 30 days requires confirmation by the Central Government whereas in the present case no confirmation by Central Government is there.

40. Further **as per Clause VI of Annexure II** i.e. Procedure to be followed for suspension of All India Service Officers posted in Ministries/Departments/State Government under AIS (D&A) Rules, 1989, an order of suspension which has been extended shall remain valid for further period not exceeding **one hundred twenty days**, at a time, unless revoked earlier on the recommendation of the Central/State Review Committee. Whereas inspite of the fact that there is no extension order, the State Government has gone beyond the procedure and without any order on record for extension or confirmation by the Central Government, the petitioner is under suspension till date.

41. Further **as per Clause VII of Annexure II** i.e. the Procedure to be followed for suspension of All India Service Officers posted in Ministries/Departments/State Government under AIS (D&A) Rules, 1989, the period of suspension may further be extended for a period of one eighty days at a time on the recommendation of the Central/State Review Committee as mentioned in Schedule 1 and II under AIS (D&A) Rules 1969 as the case may be and in the present case this clause is not followed.

42. **Clause IX of Annexure II** i.e. the Procedure to be followed for suspension of All India Service Officers posted in Ministries/Departments/State Government under AIS(D&A) Rules, 1989, the period of suspension of a member of Service suspended on charges other than corruption **shall not exceed one year** but the same can be continued beyond **one year** on the recommendations of the

Central Review Committee AND in the present case the petitioner is placed under Suspension w.e.f 18.02.2019 till date without any order of extension or any recommendation of the Central Review Committee.

43. After perusal of the suspension orders which are placed on the record and Annexure II of the Procedure to be followed for suspension of All India Service Officers posted in Ministries/Departments/State Government under AIS (D&A) Rules, 1989, it is revealed that the State Government did not bother to follow the procedure which is mandatory in the case of the petitioner for the reasons best known to the State. It is very unfortunate to observe that on the one hand the petitioner is awarded with two Gallantry Awards for rendering his meritorious service in combating with terrorism in the State of Punjab, but on the other hand the State Government has placed the petitioner under Suspension since 18.02.2019 till date i.e. for a period of almost five years without following any procedure, without any extension, without any recommendation of Central Review Committee, without any confirmation by the Central Government, which doubts the intention of the officers who are passing the suspension orders one after the other .

44. The State Government is expected to adhere to the Rules and the Procedure as laid down by the framers.

45. Part II of the All India Services (Discipline and Appeal) Rules, 1969 deals with ***'suspension'***. The dispute in the present case is as to whether Rule 3(3) is to be read with Rule 3(8) of the All India Services (Discipline and Appeal) Rules, 1969. Rule 3(3) of the Rules 1969 reads as under:-

> "*(3) A member of the Service in respect of, or against, whom an investigation, inquiry or trial relating to a criminal charge is pending*

may, at the discretion of the Government be placed under suspension until the termination of all proceedings relating to that charge, if the charge is connected with his position as a [member of the Service] or is likely to embarrass him in the discharge of his duties or involves moral turpitude."

46. A perusal of the Rule 3 (3) shows that no period of suspension is mentioned in this. The language used is "*may, at the discretion of the Government be placed under suspension until the termination of all proceedings relating to that charge".* The intention of the framers cannot be to place the member of service under suspension for years together. That is the reason in Rule 3(8) of the Rules 1969, the time period as well as the procedure to be followed for extension of time period is mentioned.

47. A perusal of the suspension order dated 20.11.2020, wherein the language used is '*the case was placed before the Review Committee constituted under Rule 3(8)(c) of the Rules 1969, who has recommended that Sh. Param Raj Singh Umaranangal, IPS to be placed under suspension w.e.f.26.09.2020 under Rule 3(3) of the All India Services (Discipline and Appeal) Rules, 1969'* shows that Rule 3(3) of the Rules 1969 is read with Rule 3(8) of the Rules, 1969. Further all the cases wherein the member of service is suspended under Rule 3(3) of the All India Services (Discipline and Appeal) Rules, 1969, the case is placed before the Review Committee constituted under Rule 3(8)(c) of the Rules 1869, meaning thereby the cases of suspension of Rule 3(3) of the Rules 1869 are dealt with as per the parameters laid down under Rule 3(8) of the Rules 1869.

48. The respondent-State cannot pick and choose the Rules of their suitability. When in the order of suspension under Rule 3(3) of the Rules 1869, a reference is given that the case was placed before the Review Committee

constituted under Rule 3(8) (c) of the Rules 1869, then sub-clause (a),(b),(d) and the proviso of Rule 3(8) cannot be said to be not applicable in case of the petitioner.

49. The contention of the learned State counsel that Rule 3(8) of the Rules 1869, would not be applicable in case of the petitioner, is rejected on this ground that the orders of suspension under Rule 3(3) of the Rules 1869, are dealt with by the following the procedure as laid down under Rule 3(8)(c) of the Rules 1869.

50. Rule 3(8) of the All India Services (Discipline and Appeal) Rules, 1969 is reproduced hereunder:-

> *"(8) (a) An order of suspension made under this rule which has not been extended shall be valid for a period not exceeding* ***sixty days*** *and an order of suspension which has been extended shall remain valid for a further period not exceeding* ***one hundred-twenty days****, at a time, unless revoked earlier.*
>
> *(b) An order of suspension made or deemed to have been made or continued shall be reviewed by the competent authority on the recommendations of the concerned Review Committee.*
>
> *(c) The composition and functions of the Review Committees and the procedure to be followed by them shall be as specified in the Schedule 1 annexed to these rules.*
>
> *(d) The period of suspension [under this rule] may, on the recommendations of the concerned Review Committee, be extended for a further period not exceeding one hundred and eighty days at a time:*

Provided that where no order has been passed under this clause, the order of suspension shall stand revoked with effect from the date of expiry of the order being reviewed."

51. A perusal of the above Rule shows that there is a limit of keeping the member of service under suspension and the maximum period after extension is **not exceeding 180 days** at a time.

52. Further, Rule 3(8)(c) reads that the composition and functions of the Review Committee and the procedure to be followed by them shall be specified in Schedule 1 annexed to these Rules.

53. In view of the explanation made above the contention of learned counsel for the respondent that if the provisions of Rule 3(8) are made applicable to Rule 3(3) then Rule 3(3) would become meaningless and otiose and further that the period mentioned under Rule 3(8) cannot be applied to Rule 3(3) also, is rejected.

54. Vide notification dated 21.12.2015 the All India Services (Discipline and Appeal) Rules, 1969 were amended. The amended relevant rules in the present case are reproduced as under:-

"(ii) a new sub-sub-rule (c) under sub rule(1) of rule 3 shall be inserted, namely:-

"(c) IAS officers working under Central Government shall only be suspended on recommendations of the Central Review Committee as amended with the approval of Minister-in- charge, Department of Personnel & Training."

(iii) in sub-sub rule (a) of sub-rule(8) of rule 3, the words **'ninety days'** and **' one hundred-eighty days'** shall be substituted with the

words **"sixty days"** and **"one hundred-twenty days"** respectively."

55. Since the All India Services (Discipline and Appeal) Rules, 1969 were amended vide notification dated 21.12.2015, therefore, the Government of India, Ministry of Personnel, Public Grievances and Pensions (Department of Personnel and Training), on 25.05.2016, issued the following office memorandum:-

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS (Department of Personnel and Training)
NOTIFICATION

New Delhi, the 21 December, 2015

G.S.R.1001(E).-In exercise of the powers conferred by sub-section (1) of Section 3 of the All India Services Act, 1951 (61 of 1951), the Central Government, after consultation with the State Governments, hereby makes the following rules further to amend the All India Services (Discipline and Appeal) Rules, 1969, namely:-

1. (1) These rules may be called the All India Services (Discipline and Appeal) Amendment Rules, 2015.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the All India Service (Discipline and Appeal) Rules, 1969 (hereinafter referred to as the said rules), in Rule 3-

(i) in sub-rule (1), in the third proviso, for the words "forty-five days" occurring at both the places, the words "thirty days" shall be substituted;

(ii) a new sub-sub-rule (c) under sub rule(1) of rule 3 shall be inserted, namely:-

"(c) IAS officers working under Central Government shall only be suspended on recommendations of the Central Review Committee as amended with the approval of Minister-in- charge, Department of Personnel & Training."

(iii) in sub-sub rule (a) of sub-rule(8) of rule 3, the words **'ninety days'** and **' one hundred-eighty days'** shall be substituted with the words **"sixty days"** and **"one hundred-twenty days"** respectively."

56. A perusal of above office memorandum shows that the procedure referred to in Annexure – II is required to be followed by the State Government for suspension of All India Services (Discipline and Appeal) Rules, 1969.

57. In the present case the period of suspension is never extended, rather a perusal of the suspension order shows that they are modified.

Dealing with the judgments cited by the learned counsel for the respondent.

58. Sultana Begum Vs. Prem Chand Jain (supra) :- This is a case relating to Section 47 and Order 21 Rule 2 CPC and execution of decree and the question dealt with is regarding the general power of deciding the question relating to execution, discharge or satisfaction of decree under Section 47 C.P.C. This judgment is of no support to the respondents since the facts of the present case are altogether different.

59. **Allahabad Bank Vs. Deepak Kumar Bhola** (supra):- In this case the respondent was facing serious charges of corruption and misappropriation of money. Further the question dealt with by the Hon'ble Apex Court was of moral turpitude. This judgment would also not be applicable to the facts of this case.

60. **A.K.K Nambiar Vs. Union of India and Another (supra) :-** In this case Hon'ble Apex Court dealt with Rule 7, 7(1) and 7 (3) of the All India Service

(Appeal and Discipline) Rules, 1955 and in this case the order of suspension was challenged on the ground of malafide. Further in this case the order of suspension was based upon prima facie involvement of employee in malpractices and corruption. This judgment would not be applicable to the facts of the present case.

61. **Union of India and Others Vs. Bani Singh (supra)** :- This case relates to deemed suspension under Rule 10(2) of Central Civil Services (Classification, Control and Appeal), Rules 1965. This is again a case of corruption, therefore, this would also not be applicable.

Now coming to the judgments cited by the learned counsel for the petitioner.

62. Hon'ble Apex Court in Ajay Kumar Chaudhary (supra), has been held as under:-

> "*11. Suspension, specially preceding the formulation of charges, is essentially transitory or temporary in nature, and must perforce be of short duration. If it is for an indeterminate period or if its renewal is not based on sound reasoning contemporaneously available on the record, this could render it punitive in nature. Departmental/disciplinary proceedings invariably commence with delay, are plagued with procrastination prior and post the drawing up of the memorandum of charges, and eventually culminate after even longer delay.*
>
> *12. Protracted periods of suspension, repeated renewal thereof, have regrettably become the norm and not the exception that they ought to be. The suspended person suffering the ignominy of insinuations, the scorn of society and the derision of his department, has to endure this excruciation even before he is formally charged*

with some misdemeanor, indiscretion or offence. His torment is his knowledge that if and when charged, it will inexorably take an inordinate time for the inquisition or inquiry to come to its.

Xxx xxxx xxxx

21. ***We, therefore, direct that the currency of a suspension order should not extend beyond three months if within this period the memorandum of charges/charge-sheet is served, a reasoned order must be passed for the extension of the suspension. As in the case in hand, the Government is free to transfer the person concerned to any department in any of its offices within or outside the State so as to sever any local or personal contact that he may have and which he may misuse for obstructing the investigation against him. The Government may also prohibit him from contacting any person, or handling records and documents till the stage of his having to prepare his defence. We think this will adequately safeguard the universally recognized principle of human dignity and the right to a speedy trial and shall also preserve the interest of the Government in the prosecution.*** *We recognize that the previous Constitution Benches have been reluctant to quash proceedings on the grounds of delay, and to set time-limits to their duration.* ***However, the imposition of a limit on the period of suspension has not been discussed in prior case law, and would not be contrary to the interests of justice. Furthermore, the direction of the Central Vigilance Commission that pending a criminal investigation, departmental proceedings are to be held in abeyance stands superseded in view of the stand adopted by us."***

63. In **State of Tamil Nandu Vs. Parmod Kumar, IPS and Another (supra),** the Hon'ble Apex Court has been held as under :-

*"**Suspension***

24.** The first respondent was placed under deemed suspension under Rule 3(2) of the All India Services Rules for being in custody for a period of more than 48 hours. Periodic reviews were conducted for his continuance under suspension. The recommendations of the Review Committees did not favour his reinstatement due to which he is still under suspension.* ***Mr P. Chidambaram, learned Senior Counsel appearing for the first respondent fairly submitted that we can proceed on the basis that the criminal trial is pending. There cannot be any dispute regarding the power or jurisdiction of the State Government for continuing the first respondent under suspension pending criminal trial. There is no doubt that the allegations made against the first respondent are serious in nature. However, the point is whether the continued suspension of the first respondent for a prolonged period is justified.

25. The first respondent has been under suspension for more than six years. While releasing the first respondent on bail, liberty was given to the investigating agency to approach the Court in case he indulged in tampering with the evidence. Admittedly, no complaint is made by CBI in that regard. Even now the appellant has no case that there is any specific instance of any attempt by the first respondent to tamper with evidence.

26. In the minutes of the Review Committee meeting held on 27-6-2016, It was mentioned that the first respondent is capable of

exerting pressure and influencing witnesses and there is every likelihood of the first respondent misusing office if he is reinstated as Inspector General of Police. Only on the basis of the minutes of the Review Committee meeting, the Principal Secretary, Home (SC) Department ordered extension of the period of suspension for a further period of 180 days beyond 9-7-2016 vide order 6-7-2016.

27*. This Court in Ajay Kumar Choudhary v. Union of India has frowned upon the practice of protracted suspension and held that* ***suspension must necessarily be for a short duration. On the basis of the material on record, we are convinced that no useful purpose would be served by continuing the first respondent under suspension any longer and that his reinstatement would not be a threat to a fair trial. We reiterate the observation of the High Court that the appellant State has the liberty to appoint the first respondent in a non -sensitive post."***

64. In **K. Sukhender Reddy Vs. State of A.P and Another (supra),** Hon'ble Apex Court has been held as under:-

"2. The appellant, who is a member of the Indian Administrative Service, was placed under suspension by order dated 6-2-1997 passed under Section 3(1) of All India Services (Discipline & Appeal) Rules, 1969, in contemplation of disciplinary proceedings which were proposed to be initiated against him. This order was substituted by order dated 13-2-1997 in which it was stated, inter alia, as under:

"On a close scrutiny of the case, it was noticed that no disciplinary proceedings under All India Services (Discipline &

Appeal) Rules, 1969 are contemplated against the member of service as of now. However, prima facie involvement and complicity of the member of service in a case registered in Cr No. 327 of 1996 under Sections 468, 471, 409 and 420 read with Section 120-B IPC of Anakapalli Town Police Station came to light during the course of investigation into the said case by CID. The investigation by CID is still in progress. The result of the final investigation by the above organisation may lead to a criminal charge against those involved in the case if the prima facie conclusions are confirmed. As such, placing the member of service under suspension in exercise of the powers conferred under Rule 3(3) of the All India Services (Discipline & Appeal) Rules, 1969 has to be invoked instead of Rule 3(1) thereof."

Xxxx xxxx

4. The criminal case referred to in the subsequent suspension order is based on a complaint of Malla Jagannadhan to the Superintendent of Police, Vishakhapatnam, dated 1-12-1996, on the basis of which Crime Case No. 326 of 1996 under Sections 468, 420, 406 read with Section 120-B IPC was registered at Anakapalli Town Police Station which is still under investigation by CID.

5. ***Rule 3 of the All India Services (Discipline & Appeal) Rules, 1969 consists of two parts. The first part is contained in sub-rule (1), which provides that a member of the All India Services can be placed under suspension pending disciplinary proceedings against him. The other part is contained in sub-rule (3) which provides that***

a member of the All India Services, who is involved in a criminal case, may be placed under suspension.

6. The appellant was placed under suspension on 6-2-1997 by an order passed by the Chief Secretary to the Government of Andhra Pradesh under sub-rule (1) of Rule 3 till the completion of the disciplinary proceedings against him. This order was subsequently replaced by another order passed on 12-3- 1997, in which it was clearly spelt out that disciplinary proceedings against the appellant were not at all contemplated, but since he was involved in Crime Case No. 327 of 1996 registered under Sections 468, 471, etc. by Anakapalli Town Police Station, he was being placed under suspension. This matter is still under investigation by the CID and a charge-sheet has not yet been filed in the case.

7. Another vital fact which has come on record is that in the criminal case a number of senior IAS officers, even senior to the appellant, may be found involved, but nothing positive or definite can be said as yet as the investigation is likely to take time. The matter is pending with the police since 1-12-1996 when the FIR was lodged at Anakapalli Town Police Station. ***The investigation has not been completed although about two-and-a-half years have passed. We do not know how long it will take to complete the investigation. That being so, the officer of the rank of the appellant, against whom it has now come out that the disciplinary proceedings are not contemplated, cannot be kept under suspension for an indefinite period, particularly in a situation where many more senior officers may ultimately be found involved, but the appellant alone has been***

placed under suspension. The Government cannot be permitted to resort to selective suspension. It cannot be permitted to place an officer under suspension just to exhibit and feign that action against the officers, irrespective of their high status in the service hierarchy, would be taken."

65. In **M. Kalaivanan (supra)**, Madras High Court has been held as under:-

7. We have beard the learned counsel appearing on either side and perused the materials available on record. No doubt a Government servant can be suspended in contemplation of an enquiry/investigation. ***Generally this Court will not interfere in the suspension order, as an order of order of suspension is not a punishment. But at the same time, one cannot be kept in suspension for an Indefinite period, in the garb of pending enquiry/investigation, in criminal proceedings. It is also true that merely delay in investigation will not ipso facto set aside the suspension. However, each case depends upon the facts of its own. In the instant case despite the order of the Tribunal dated 16.12.1997, directing to expedite the Investigation, Investigation is completed only in one case as alleged the charge-sheet has not been filed yet and in another case, Investigation is pending, as mentioned above****.*

8. ***A perusal of the notification, which came into effect from the date of its publication i.e. 13.7.1998, reveals that the suspension order remains valid for a period of 90 days and an order which has been extended shall remain valid for a further period not exceeding***

180 days at a time. The respondents have also not communicated the special circumstances for not initiating disciplinary proceedings, allowing the continuance of the suspension order, beyond the period stipulated.

9. Learned counsel for the respondents has not been able to show that the competent authority has considered and reviewed that continuance of the suspension is necessary and has not communicated ***the extension of any such suspension order to the petitioner****, to that effect, after the orders of the Tribunal, nor after the publication of the new notification, despite time granted earlier by this Court. Considering the facts that the petitioner is placed under suspension* ***for the last 2-12 years and as discussed above, and in view of the notification, the continuance suspension of the petitioner will become invalid and the same cannot be continued****. Therefore, under the facts and circumstances of the case without going into the merits of the case, and in view of legal position as stated. We are of the view that under the facts and circumstances of the given case, the order of suspension,* ***Impugned herein, cannot continue and the same is liable to be revoked. The orders dated 23.9.1996 and 26.8.1997 are set aside to this extent. The petitioner is directed to be reinstated into service within one week from today. However, the reinstatement will be subject to the result of the investigation and the enquiry. The writ petition is disposed of with the above directions. No costs. WMP No. 2010 of 1998 is dismissed****."*

66. In **State of Madhya Pradesh & Ors (Supra),** Madhya Pradesh High

Court has held as under:-

> *8. Rule 3 of Rules of 1969 deals with suspension of members of All India Service. Since the time said rules were framed in 1969 till 13.07.1998 when several amendments were made in Rule 3 of Rules of 1969, Rule 3 empowered the Competent Authority (under the State Government or Central Government) alone to decide on the question of suspension of All India Service officers and also continuance of such suspension. There was no further provision in Rule 3 to exercise any check over this power of Competent Authority.*
>
> ***8.1 As a result of above said sweeping powers in the hand of Competent Authority, there were occasions where officers were kept under suspension for long period of time.***
>
> ***8.2 The concept of periodical review of suspension and justification for its extension was introduced by way of Executive Instructions, which did not have statutory force.***
>
> ***8.3 Realizing the grievance of suspended officers of All India Service, All India Services (Discipline & Appeal) Amendment Rules, 1998 were introduced, which inserted Sub Rule 8(a), 8(b), 8(c) and 8(d) in Rule which is reproduced above.***
>
> ***8.4 The insertion of Sub Rule 8(a), 8(b), 8(c) and 8(d) in Rule 3 created a statutory Review Committee to prevent the Competent Authority from acting in an arbitrary, whimsical and unreasonable manner while extending/reviewing the period of suspension. Sub Rule (8) of Rule 3, which was introduced w.e.f. 25.07.1998 made it mandatory for the Competent Authority to decide on the question of continuance/review of suspension orders on the recommendation of***

said statutory Review Committee.

8.5 To make the power of suspension more circumscribed and bereft of element of arbitrariness, Rule 3 underwent another spell of amendment by notification dated 21.12.2015, which introduced the following changes:-

(i) In the third Proviso to Rule 3 (1), the expression "45 days" was replaced by "30 days". Meaning thereby that if the suspension was based on contemplated disciplinary proceedings and the charge sheet was not issued within 45 days (now reduced to 30 days), which was extendable by another 30 days and if the order of suspension is not confirmed by the Central Government within said period, then suspension order would lapse on expiry of 60 days.

(ii) An IAS Officer working under the Central Government shall be suspended only on recommendation of Central Review Committee with approval of Minister Incharge, Department of Personnel and Training.

(iii) ***The expression "90 days" and "180 days" found in Sub Rule 8(a) of Rule 3 were substituted by 60 days and 120 days respectively. Meaning thereby that order of suspension passed under Rule 3, which has not been extended, shall be valid for a period not exceeding 60 days and the order of suspension which has been extended shall remain valid for a period not exceeding 120 days unless revoked earlier.***

(iv) The composition of Review Committee constituted by the Central Government and also by the State Government were statutorily provided in Schedule 1 of Rules of 1969 w.e.f.

30.09.2009. The Review Committee comprised of High Ranking Bureaucrats to keep a check on the arbitrary, whimsical and unreasonable exercise of power of suspension and it's extension by the Competent Authority.

9. Bare perusal of aforesaid Rule 3(8), reveals that Review Committee is constituted for the purpose of assessing sufficiency of grounds for continuation of suspension order. There are two such Review Committees contemplated by Schedule 1 appended to said Rules. One under the Central Government and the other under the State Government. Schedule 1 also delineates the function to be performed by these Committees, which is to examine the existence/non existence and sufficiency of grounds justifying continuance of suspension beyond initial period of suspension as per Rule 3(8) of Rules of 1969.

9.1 No doubt, Rule 3(8)(a) of Rules of 1969 while prescribing the initial period of suspension of 60 days excludes from its sweep those orders of suspension, which have been extended by the State Government. Meaning thereby that if order of suspension is passed and is not extended before expiry of 60 days, then the same would lapse.

9.2 Pertinently, the first review by Review Committee is stipulated to be undertaken within 90 days of the order of suspension which is not extended. While for suspension orders which are extended the review by Review Committee is mandated to be undertaken within 180 days (vide Clause 2 of Schedule I). More so, Rule 3(8)(d) circumscribes the power of extension of suspension backed by

recommendations of Review Committee to a maximum of 180 days at a time. Meaning thereby, if any order of suspension is extended beyond initial period of 60 days, then such orders can remain valid for another 120 days (for a total of 60+120-180 days) without obtaining recommendations of Review Committee thereby compelling the officer to remain suspended for six months without any review.

9.3 Thus, before expiry of initial period of suspension of 60 days, Competent Authority is empowered to extend the same beyond period of 60 days. Pertinently, after amendment in Rule 3, the power to assess legality, validity and sufficiency of grounds for extension beyond 60 days or beyond any further period exclusively with Review Committee. Competent Authority thus to preserve and further the object behind the amendment cannot continue or extend, whether it is first extension beyond initial period of suspension of 60 days or any subsequent extension/continuance except on the recommendations of Review Committee. Thus, convening of Review Committee prior to expiry of initial period of suspension of 60 days inferentially sub-serves the object of the amended Rules.

10. Rule 3(8)(a) of Rules of 1969 creates two class of suspension orders. First being the order of suspension which has been extended beyond the period of 60 days by the State/Competent Authority without recommendation of Review Committee and thus can remain valid for a further period not exceeding 120 days. Whereas for the second category of suspension orders, which have not been extended by the State/Competent Authority, the order of suspension lapses on

expiry of 60 days, if neither charge sheet is filed nor Central Government confirms the suspension order. Respondents are unable to disclose the reason behind such a classification, which thus appears to have no rationale.

10.1 If Rule 3 of Rules of 1969 is read textually as well as contextual then no such reason is palpable to justify such a classification.

10.2 The concept of review of an order of suspension is founded up the rationale that extensions/continuance of order of suspension t place for reasons justified in law without any discrimination, arbitrariness or capriciousness coming into play. With this rationale behind every act of extension/continuance suspension order beyond initial period of 60 days, it does not appeal to reason that the safety measure of review should not be applied while extending the period of suspension beyond 60 days.

10.3 As explained above, ***an officer shall remain under suspension for six months without his case being considered by the Review Committee. It is only when the extension is proposed beyond the period of six months, then the Review Committee would be consulted and not otherwise. This situation would allow the State/Competent Authority to use the power of suspension as a weapon for victimizing employees by keeping them under prolonged suspension for six months without having to justify the decision of extension to the Review Committee****.*

11. In view of aforesaid series of amendments, ***which Rule 3 underwent, it is obvious that beyond initial period of 60 days, which***

is provided under the third Proviso to Rule 3 (1) as the maximum period for issuance of charge sheet qua suspension relating to contemplated disciplinary proceedings, every extension whether made by the Competent Authority or by the Central Government or by the State Government beyond period of 60 days *ought to be subjected to scrutiny of Review Committees as a sine qua non so as to prevent every extension from falling foul of arbitrariness, capriciousness and unreasonableness.*

11.1 ***Thus, the intention behind amended Rule 3 is to render every decision making process of extension/continuance of suspension orders, to be immune from arbitrariness.***

xxx *xxx* *xxx*

13. From the aforesaid discussion, what comes out loud and clear is ***that Review Committee constituted by the Rules of 1969 especially Rule 3(8)(c) is required to be mandatorily consulted by the Competent Authority not only for the purposes of second, third or subsequent extensions of period of suspension, but also in regard to extension/continuance beyond the initial period of 60 days****.*

67. Vide order dated 26.07.2023, this Court passed the following order :-

"*Present: Mr. D.S. Patwalia, Sr. Advocate with*
Mr. G.S. Patwalia, Advocate for the applicants-petitioners.

Mr. Satya Pal Jain, Additional Solicitor General of India with Mr. Ashish Rawal, Advocate for respondents No.1 and 2.

Mr. R.K. Kapoor, Addl. A.G., Punjab with
Mr. T.P.S. Walia, AAG, Punjab.

CM-11877-CWP-2023

To be heard alongwith the main case.

Main case

Learned counsel appearing for respondents No.1 and 2 prays for time to file a short affidavit explaining therein the stand of the Union of India with regard to interpretation of Rules 3(2), 3(3) and 3(8) of All India Services (Disciplinary & Appeal) Rules, 1969.

Adjourned to 09.08.2023."

68. The ratio of the judgments mentioned above is that one cannot be kept in suspension for an indefinite period in the garb of pending enquiry/investigation in criminal proceedings.

69. In compliance of order dated 26.07.2023, a short reply was filed by Union of India, through Sh. Sanjeev Kumar, Under Secretary to Government of India, Ministry of Home Affairs, New Delhi. The relevant paras of the stand taken by Union of India are reproduced as under :-

"***9***. *That it is submitted that suspension as well as revocation thereof of the members of service is governed by the All India Service (Discipline & Appeal) Rules, 1969.*

10. *That Rule 3 of the AIS (D&A) Rules, 1969 deals with the suspension of AIS Officers. A bare reading sub rules (1) to (6) of Rule 3 shows that each of the sub rule deals with different situations of suspension:*

Rule 3(1) of 1969 Rules provide for suspension on account of disciplinary proceedings <u>while</u> Rule 3(2) thereof provides that if any

member of service is detained in official custody whether on a criminal charge or otherwise for a period of 48 hours, he/she shall be deemed to have been suspended by the Government concerned.

Rule 3(3) of 1969 rules provides that a member of service against whom an investigation, inquiry or trial relating to criminal charge is pending may, at the discretion of Government be placed under suspension until the termination of all proceedings relating to that charge.

11. *The Rule 3(8)(a) of AIS (D&A) Rules, 1969 provides that an order of suspension made under this rule which has not been extended shall be valid for a period not exceeding sixty days and an order of suspension which has been extended shall remain valid for a further period not exceeding 120 days, at a time. unless revoked earlier. The Rule 3(8)(b) provide that an order of suspension made or deemed to have been made or continued shall be reviewed by the competent authority on the recommendations of the concerned Review Committee.*

Further, Rule 3(8)(c) provides for functions of Review Committees and procedures to be followed while Rule 3(8)(d) provides that period of suspension under this rule may, on the recommendations of the concerned Review Committee, be extended for a further period not exceeding 180 days at a time provided that where no order has been passed under this clause, the order of suspension shall stand revoked with effect from the date of expiry of order being reviewed.

12*. That as regards petitioner's plea of review of suspension as per*

Rule 3(8) of 1969 Rules, it is submitted and reiterated that the petitioner has been suspended by respondent-State Government under Rule 3(3) of 1969 Rules.

A simple reading of Rule 3(8) stated that an order of suspension made under Rule(3) requires to be reviewed by the concerned Review Committee. It doesn't differentiate the reason for suspension prescribed under Rule 3(1) to Rule 3(6).”

70. A bare perusal of the stand taken by the Union of India shows that respondent No.1 has supported the case of the petitioner by giving interpretation with regard to the period of suspension mentioned in Rule 3(8) of the All India Services (Discipline and Appeal) Rules, 1969. Further by clarifying that Rule 3(8) of the Rules 1969 doesn’t differentiate the reason for suspension prescribed under Rule 3(1) to Rule 3(6).

71. In view of the above discussion, the present writ petition is allowed. The impugned order dated 01.02.2023 (Annexure P-31) passed by the Central Administrative Tribunal, Chandigarh Bench in OA No.695 of 2022, the suspension orders dated 26.02.2019 (Annexure P-3), 20.11.2020 (Annexure P-17) and 22.03.2021 (Annexure P-18) and order dated 20.11.2020 (Annexure P-16), are hereby quashed. The respondents are directed to allow the petitioner to join the services forthwith.

72. Pending applications, if any, also stand disposed off.

(SURESHWAR THAKUR)
JUDGE

(SUDEEPTI SHARMA)
JUDGE

February 02, 2024
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NOTE : Whether speaking/non-speaking : Speaking
Whether reportable : YES/NO